

UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE PATENT TRIAL AND APPEAL BOARD

FOURSQUARE LABS, INC.,
Petitioner

v.

BOARDACTIVE CORPORATION,
Patent Owner

U.S. PATENT NO. 10,692,108 B1
Title: PLATFORM FOR LOCATION AND TIME BASED ADVERTISING

IPR2023-00919

PATENT OWNER'S RESPONSE

UNDER 37 C.F.R. § 42.120

February 22, 2024

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Exhibit	Title
1001	U.S. Patent No. 10,692,108 to Pittman (“Pittman”)
1002	Declaration of Dr. Steven Goldberg, Ph.D.
1003	Petitioner’s Power of Attorney
1004	U.S. Patent Application Publication No. 2015/0095124 (“Felt”)
1005	U.S. Patent Application Publication No. 2015/0262214 (“Geer”)
1006	U.S. Patent Application Publication No. 2011/0171976 (“Creemer”)
1007	U.S. Patent No. 9,516,470 (“Scofield”)
1008	European Patent Publication No. 2424278 A1 (“Adharapurapu”)
2001	U.S. Patent No. 10,692,108, file history
2002	The GSM System for Mobile Communications
2003	3GPP TS 45.008 V5.11.0 (2003-06)
2004	Declaration of Craig Bishop

II. INTRODUCTION

Patent Owner BoardActive Corporation (“BoardActive” or “Patent Owner”) submits the following Patent Owner’s Response pursuant to 37 C.F.R. § 42.120. Petitioner Foursquare Labs, Inc. (“Foursquare” or “Petitioner”) filed a Petition for Inter Partes Review of U.S. Patent No. 10,692,108 B1 (the “’108 patent”) on May 9, 2023 (IPR2023-00919, Paper 1 (“Petition”)), and the Board issued a Decision, Paper 7, granting institution of the Inter Partes Review on November 29, 2023. (DTI, p.54).

However, Petitioner fails to show that any claim of the ’108 patent is anticipated or rendered obvious by Felt (Exh. 1004)¹; rendered obvious by Felt in view of Geer (Exh. 1005), Creemer (Exh. 1006) or Scofield (Exh. 1007,); or rendered obvious over Adharapurapu (Exh. 1008)² in view of Felt and Geer.

The ’108 patent is directed to a method of delivering media content associated with a geolocation, e.g., a billboard, when three rules related to (1) time, (2) profile data, and (3) course of travel are satisfied. When the consumer is within a geofence

¹ In its POPR, Patent Owner identified the patent to Felt by its owner “Verizon” but will adopt the Board’s indicia (“Felt”) moving forward.

² In its POPR, Patent Owner identified the patent to Adharapurapu by its owner “Alcatel” but will adopt the Board’s indicia (“Adharapurapu”) moving forward.

associated with a specified geolocation, the consumer's profile data is considered. The method then tracks the consumer to determine if the consumer has performed an action, such as traveling towards the geolocation associated with the media content. When the consumer is at a second location, the method determines the course of travel of the consumer, based at least in part, on an analysis of the first location and the second location. After making these analyses, the method determines whether the consumer is eligible to receive a specific piece of content associated with the content distribution campaign.

Foursquare asserts one Ground of anticipation and six Grounds of obviousness. The Petition's first four obviousness Grounds contend that the claims would have been obvious first over one primary reference, Felt (Exh. 1004), and then over various combinations of three secondary references Geer (Exh. 1005), Creemer (Exh. 1006), and Scofield (Exh. 1007). The last two obviousness Grounds rely upon Adharapurapu (Exh. 1008) as the primary reference, and either Felt or Geer as the secondary reference. ***However, none of these references alone or in combination teach all of the claim elements of the '108 patent's challenged claims.*** At least, claim elements 1(e), 1(f), 13(d), and 20(g) of independent claims 1, 13, and 20 are not taught by any of the references individual or when combined.

Petitioner's arguments fail for several reasons. For example, Felt describes two separate embodiments: a consumer and a non-consumer embodiment.

Foursquare improperly combines these embodiments when arguing that Felt satisfies the consumer elements of the '108 Patent. *See In re Stepan Co.*, 868 F.3d 1342, 1346 n.1 (Fed. Cir. 2017) (requiring a showing of a motivation to combine where the obviousness argument relies on separate embodiments in a single reference).

Instead, Felt fails to teach either “receiving a second indication that the consumer is at a second location” or “determining the course of travel based, at least in part, on an analysis of the first location and the second location.” DTI, p.28. Further, Petitioner fails to show any motivation to combine the references, as it is required to do. *Id.* Because of these fundamental deficiencies, and for the reasons described below, the Petition should be denied and the patentability of the claims confirmed.

III. PERSON OF ORDINARY SKILL IN THE ART

For the purposes of this proceeding, Patent Owner accepts the definition of a person of ordinary skill in the art (“POSITA”) adopted by the Board’s Decision to Institute. DTI, p.10. Specifically, a POSITA “would have had a Bachelor of Science Degree in Computer Science, Electrical Engineering, Computer Engineering or equivalent, and about two to three years of practical experience. Additional experience may substitute for specific education, or specific education may substitute for experience.” DTI, p.10.

IV. BACKGROUND

The '108 Patent, titled “Platform for Location and Time Based Advertising,” issued on June 23, 2020,³ and generally relates to an online platform for managing geolocation and time-based advertising. Exh. 1001, 1:24-28. The platform can act as a standalone product or can be integrated with a company’s existing software/applications. *Id.*, 11:47-12:6.

A. State of the Art Prior to Filing of the '108 Patent

Prior to filing of the '108 Patent, there was a need in the market for improved methods of location and time-based advertising. Outdoor advertising was then, as it is now, a common and powerful mode of disseminating information to users. Typically, outdoor advertising involved the use of signage (e.g., a billboard, T.V., or other viewable advertisements) installed at public places such as roadways, bus and train stations, airports, malls, parking spaces, etc. These signs are typically managed by an advertising agency that rents the sign to different advertisers for a predetermined time. In recent years, the same technique has been adopted in the online advertising space.

³ The '108 Patent is a continuation of application 15/950,019 filed on April 10, 2018, titled “Platform for Location and Time Based Advertising,” which is a continuation-in-part of U.S. application 15/483,790, filed on April 10, 2017, titled “A Platform for Location and Time Based Advertising,” which issued on December 31, 2019, as U.S. Patent 10,521,822. Exh. 1001, pp. 1–2.

While traditional signage has proven itself as a viable method of advertising over the years, it nevertheless has several shortcomings. For example, adverse weather such as fog, rain, etc., greatly hampers viewer visibility. Also, traditional signs require illumination in dark conditions, i.e., at night, which increases cost. Furthermore, viewers are often distracted by other visuals such as trees, buildings, etc., partially or completely blocking and or distracting the viewer from the advertisement. Moreover, signs are oftentimes placed along highways, where viewers are moving at highway speeds, and are (hopefully) focused on the road. Because of these shortcomings, traditional methods failed to leave the desired impression upon the viewer.

In addition to its shortcomings to viewers, the prior art also left much to be desired for the advertisers. For example, advertisers were unable to determine the reach and/or efficacy of their advertisement campaign because the advertiser did not have a means for collecting or assessing the effect of the advertisement on the viewer. In other words, advertisers could not know if the advertisement worked. Absent such information, advertisers using traditional signs were at a disadvantage because they could not change their advertisements based on consumer response.

B. Petitioner's Prior Art

The Petitioner relies on five references: Felt, Geer, Creemer, Scofield, and Adharapurapu. None of those references disclose the claimed methods

incorporating a platform for location and time based advertising using a third rule corresponding to a course of travel associated with a consumer, nor first and second indicators of a first location and a second location. Because Petitioner has not shown these claim elements in the prior art, Petitioner's arguments fail as a matter of law.

1. Felt (Exh. 1004)

Unlike the '108 patent, Felt—a U.S. patent application, published on April 2, 2015, and subsequently abandoned in 2017—is directed to systems and methods “for displaying marketing content at a predetermined location and at a predetermined time.” Ex. 1004, Abstract. Felt differs from the '108 patent, generally, in that it determines when and where an advertisement will be placed, while the '108 patent, by contrast, determines *who* will receive media content. Put another way, Felt is directed to determining which billboard should display content, whereas the '108 patent determines who should receive media content.

Additionally, Felt is not concerned with delivering personalized content to a consumer and evaluating the efficacy of that content, which the '108 patent does. Instead, Felt provides advertising content based solely on characteristics concerning the advertisement itself (i.e., particular location or time of day) and a potential customer's proximity to the advertisement. *Id.* at [0018].

Felt also describes two distinct embodiments to for delivering content, and as described below, the Petition selectively, and improperly, cherry picks components

from both embodiments when it suits Petitioner to do so. *See In re Stepan Co.*, 868 F.3d 1342, 1346 n.1 (Fed. Cir. 2017) (requiring a showing of a motivation to combine where the obviousness argument relies on separate embodiments in a single reference).

For example, one embodiment in Felt sends advertising content to non-consumers such as billboards, vehicular displays, subway cars, trolley cars, and signs. Ex. 1004 at [0021]. Such systems do not involve delivering advertisements to “consumers” as required by the ’108 patent.

A second embodiment sends advertising content directly to a consumer’s mobile device. *See, e.g., id.* at [0044]. However, in this embodiment, rather than target a user based on their course of travel or their previously known preferences, Felt sends advertising content to a consumer solely because of their proximity to a display (*e.g.*, a billboard or a vehicular display). *Id.*

Further, there is nothing in either of Felt’s embodiments that provide an analytics interface that would permit a company to evaluate the efficacy of its advertising content and make changes to their campaigns accordingly.

2. Geer (Exh. 1005)

Geer, patent application publication number US 2015/0262214, claims priority to March 18, 2024, and is directed to a system for social networking at a specific event or venue. Exh. 1005, ¶2. For example, fans attending a sporting event

can use an application on a cellular phone to message each other. *Id.*, ¶6. The users of Geer’s system are already present at an event or venue. *See id.*, ¶¶6–7; *see also id.*, ¶50 (“After the start [], fan [] registers ... to participate in the FNS [] at the event.”). Thus, unlike the ’108 patent, the system of Geer is not attempting to direct users to a certain destination, nor is it evaluating or providing analytics on its efficacy in doing so. In short, Geer is only tenuously related to the field of advertising, and it is wholly unrelated to the invention disclosed in the ’108 patent.

3. Creemer (Exh. 1006)

Creemer, patent application publication number US 2011/0171976, claims priority way back to 2001. Exh. 1006. Although Creemer discusses using position information to track a user’s rate and direction of travel, Exh. 1006, ¶¶10–15, it focuses on determining a user’s likely mode of transportation (e.g., walking, driving, or riding on a train). *See, e.g., id.*, ¶¶62–68. And while Creemer mentions the possibility of “targeting” a service or advertisement based on a user’s direction of travel, *see id.*, ¶15, apropos of its claim of priority to 2001, there is no concrete discussion in Creemer on how to achieve that targeted advertising. For example, unlike in the ’108 patent, there is no discussion in Creemer of comparing the location and direction of travel of a user to nearby billboards or digital signage, nor is there any mention of further comparing that information to the location of related stores that may be in or near the user’s expected course of travel.

4. Scofield (Exh. 1007)

Scofield is a patent that issued in 2016 but was originally filed in 2007. Exh. 1007. At the time the application was filed, text messaging was just becoming widespread, *id.* at 1:30-37, and mobile phones were only “recently” being used for tracking and collecting location data via GPS and triangulation. *Id.* at 1:47-56.

Relevant to the time it was filed, when cellular phone tracking technology was in its infancy, Scofield discusses tracking a user’s movements and location and delivering position-relevant advertising, but in the context of a closed or semi-closed environment like a shopping mall or sports venue, and based on prior traffic patterns of the user. *Id.*, 2:8-44. For example, if a user arrives at a mall she has previously visited, stored data would allow the system to predict that the user may return to a specific store, and thus the system delivers a coupon or advertisement for that store. *Id.*, 4:8-41. What Scofield does not do—and what is key to the invention of the ’108 patent—is track a user’s location in real-time, in relation to advertisement’s geolocations (such as billboards) and related stores, and send digital advertisements to the user in an effort to influence her direction of travel. Additionally, nothing in Scofield discloses tracking the efficacy of digital advertisements sent to the user.

5. Adharapurapu (Exh. 1008)

Adharapurapu is a European patent application that claims priority back to 2010. Exh. 1008. Like Scofield, Adharapurapu relies on storing and using “the

mobility history” of a mobile device to determine its “direction of travel.” *Id.*, Abstract & ¶6. When a user passes by a “base station,” and has opted to receive content delivery, the system sends a message like “Road X closed for construction” *Id.*, ¶¶15-18. Nothing in Adharapurapu discloses tracking multiple positions of a user, or comparing those positions to determine a course of travel, as the ’108 patent requires.

Moreover, while Adharapurapu mentions that the content may be advertisements, *id.* at ¶16, there is no disclosure of personalizing the content based on the user’s expected course of travel or their proximity to a specific billboard or store. Nor is there any mention of evaluating the effectiveness of any advertisement sent to the user. Furthermore, an alleged direction is defined by a history of base stations the mobile unit connects with (i.e. cellular coverage) during travel. *Id.* at ¶22. No direction is provided and simply connecting to a base station only gives a geographic area in which the mobile unit may be. That geographic area using historic data, to identified a potential next geographic area. *Id.*

V. CLAIM CONSTRUCTION

In construing patent claims, the Court first looks to the intrinsic record which consists of the claim language, the patent specification, and, the patent’s prosecution history. *See Phillips v. AWH Corp.*, 415 F.3d 1303, 1312 (Fed. Cir. 2005). Intrinsic evidence is the most important resource in determining the operative meaning of

disputed claim language, and usually will resolve any ambiguity concerning that language. *Vitronics Corp. v. Conceptronic, Inc.*, 90 F.3d 1576, 1582-83 (Fed. Cir. 1996). Indeed, “[i]n those cases where the public record unambiguously describes the scope of the patented invention, reliance on any extrinsic evidence is improper.” *Id.* at 1583. Where the claim language is clear on its face and susceptible of a clear and unambiguous plain meaning and scope, and in the absence in the intrinsic record of any clear deviation or contradiction, or clear intent by the inventor to be his or her own lexicographer, the inquiry need go no further. *See Interactive Gift Express, Inc. v. Compuserve, Inc.*, 256 F.3d 1323, 1331 (Fed. Cir. 2001).

A. “Consumer”

In its Preliminary Response, Patent Owner proposed that the claim term “consumer” be construed to mean “a user or person to whom an advertisement is sent to elicit engagement.” POPR at 7. In its Decision to Institute, the Board found that proposed construction was too narrow because it would exclude those who are not sent an advertisement “to elicit engagement.” DTI at 13. As such, Patent Owner proposes that “consumer” be construed to mean “a user or person to whom an advertisement may be sent.”

B. “Course of Travel”

The Board’s Decision to Institute adopted the plain and ordinary meaning of the claim term “course of travel.” Patent Owner agrees that “course of travel” should

be given its plain and ordinary meaning, but notes that the plain and ordinary meaning requires an analysis of two distinct locations. This requirement is found in the claims themselves. Claim 1 expressly requires that determining the “course of travel” be based “at least in part, on an analysis of the first location and the second location.” Exh. 1001, 38:65-67. As such, Patent Owner proposes “course of travel” be given its plain and ordinary meaning, albeit requiring “at least in part, an analysis of the first location and the second location.”

VI. THE CLAIMS OF THE '108 PATENT ARE NEITHER ANTICIPATED NOR OBVIOUS

The Board should deny the Petition because none of Petitioner’s Grounds renders the claims of the ’108 patent anticipated or obvious.

A. GROUNDS I & II: The Claims of the ’108 Patent are Neither Anticipated nor Obvious Under Felt Alone

Grounds I and II fail because multiple claim elements are not disclosed by Felt. To establish anticipation, a prior art reference must show each and every element of the claimed invention, as arranged in the claim. *See Connell v. Sears, Roebuck & Co.*, 722 F.2d 1542, 1548 (Fed. Cir. 1983). Thus, Patentee need only show a single missing claim element to overcome Petitioner’s argument.

Similarly, to establish single element obviousness, Petitioner must show that the differences between the prior art and the patented claims “are such that the claimed invention as a whole would have been obvious [at the time of the invention]

to a person having ordinary skill in the art” 35 U.S.C. § 103. A single prior art reference can render a patent obvious “if it would have been obvious to modify that reference to arrive at the patented invention.” *Arendi S.A.R.L. v. Apple Inc.*, 832 F.3d 1355, 1361 (Fed. Cir. 2016). However, the challenger must show “a suggestion or motivation to modify the teachings of that reference to the claimed invention” *SIBIA Neurosciences, Inc. v. Cadus Pharm. Corp.*, 225 F.3d 1349, 1356 (Fed. Cir. 2000) (citation omitted). The challenger must make the same showing when relying on multiple embodiments found in a single reference. *In re Stepan Co.*, 868 F.3d 1342, 1346 n.1 (Fed. Cir. 2017). Thus, the test is not simply whether a single reference can be modified, but rather, whether there is a suggestion or motivation to make that modification to achieve the claimed invention. *Id.*

As the Board recognized in its Decision to Institute, Felt does not disclose every element of the claims. Specifically, nothing provided by Petitioner “clearly sets forth where Felt teaches the receipt of a *second indication* at a *second location*.” DTI at 26. Additionally, Felt does not disclose a “content distribution campaign”; Felt does not require three rules – the first rule relating to a period of time, the second rule relating to an element of profile data associated with a consumer, and a third rule corresponding to a course of travel associated with the consumer, and; Felt’s “direction of travel” is not the same as the ’108 patent’s “course of travel.”

Here, Petitioner's anticipation argument fails because it has not and cannot show that every element of the challenged claims is present in Felt. Likewise, Petitioner's obviousness argument fails because Felt's missing elements cannot be created by the knowledge of a POSITA.

1. Cherry Picking Between Embodiments is Improper

Felt's first embodiment delivers content to a consumer, and the second embodiment delivers content to a non-consumer, such as a billboard. The Petition cherry-picks elements from the two distinct approaches while ignoring the actual teachings and description contained in Felt. *See In re Stepan Co.*, 868 F.3d 1342, 1346 n.1 (Fed. Cir. 2017) (requiring a showing of a motivation to combine where the obviousness argument relies on separate embodiments in a single reference); *see also BlephEx, LLC v. Myco Indus., Inc.*, 24 F.4th 1391, 1400–02 (Fed. Cir. 2022) (“[I]t is not enough that the prior art reference includes multiple, distinct teachings that the artisan might somehow combine to achieve the claimed invention to show anticipation.”). Yet, even if the combination of embodiments were proper, Petitioner still fails to show that all the required claim elements are met by Felt. Moreover, the Petition and supporting declaration, Exh. 1002, make only conclusory statements about the knowledge of a POSITA, and they fail to identify a motivation to modify the teachings of Felt.

2. Independent Claim 1—“A method comprising:”

- a. [Element 1(a)] Specifying a content distribution campaign, the content distribution campaign comprising**
 - [1(a)(i)] a geolocation, and**
 - [1(a)(ii)] media content associated with the geolocation;**

A “content distribution campaign” is not disclosed in Felt. Instead, Felt offers ad agencies the opportunity to categorize and assign criteria to marketing content, and have the content stored in a bank for later distribution – this case by case approach of distribution is not a “campaign.” See Exh. 1004, ¶0028. While the paragraph mentions “deliver[ing] the marketing content to various mobile units or mobile devices,” this is describing little more than sending an advertisement and not a content distribution campaign. Further, later paragraphs, such as 0034 and 0051, clarify that the content is stored on the mobile unit 124 or mobile device 120. *Id.*, ¶0034 (referencing Fig. 2A and specifying that the storage module 214 is part of mobile unit 124); 0051 (the “marketing content may be stored in storage module 514 for use by mobile device 120”). Thus, no “content distribution campaign” is described in Petitioner’s cited paragraphs.

Petitioner relies on Felt paragraph 0054 for allegedly showing content rules for stored content that include predetermined time or intervals. Pet. 7 (citing Exh. 1004, ¶0054). But paragraph 0054 does not describe rules for sending content during

predetermined time intervals, rather, it describes content that is already downloaded and resident on mobile device 120. *See Id.* (“Such selection of marketing content may be made by a decision module on ad server 107 or mobile unit 124, or on mobile device 120 itself if the marketing content is already within storage module 514 of the mobile device 120” (emphasis added)). Felt’s disclosed time period is only for displaying the already distributed and resident content, not for determining when to *send* the content to the mobile device. *Id.* (“The type of ‘queued’ content may also be determined by user of mobile device 120, such as by placing particular content in categories of content, in user’s ‘wishlist.’”). Thus, Petitioner has misinterpreted the claim language to ignore that the “content distribution campaign” is to a consumer who is associated with profile data. *See* Exh. 1001, 38:54-55.

Therefore, Petitioner has failed to meet its burden of establishing that this element is present in Felt, and thus claim 1 is not anticipated by Felt. In addition, the Petition provides no evidence that a POSITA would modify the teachings of Felt to arrive at the claimed invention, see Pet. 5-6, so no showing of obviousness has been made.

b. [Element 1(b)] Specifying a plurality of rules for the content distribution campaign, wherein specifying the plurality of rules comprises:

[1(b)(i)] specifying a first rule corresponding to a period of time,

[1(b)(ii)] specifying a second rule corresponding to at least one element of a profile data associated with a consumer,

[1(b)(iii)] specifying a third rule corresponding to a course of travel associated with the consumer;

Claim 1 of the '108 patent requires three rules be satisfied prior to content distribution; however, the Petition improperly jumbles the three separate rule requirements together. Pet. 6-7. Moreover, the Petition seeks to satisfy its burden of showing the three rules with a series of lengthy string cites with no explanations. *Id.* at 7. For this reason alone, the Petition has failed to meet its burden under 35 U.S.C. § 312(a)(3) and 37 C.F.R. § 41.104(b). See, e.g., *Trading Techs. Int'l, Inc. v. IBG LLC*, 921 F.3d 1378, 1385 (Fed. Cir. 2019) (holding that a conclusory assertion with no analysis was not adequately developed); *Novartis AG v. Torrent Pharms.*, 853 F.3d 1316, 1326 n.2 (Fed. Cir. 2017) (finding that an argument presented in one conclusory sentence and a string cite was “far from sufficient to raise a meaningful challenge” and “amount[ed] to little more than a request that the Board peruse the cited evidence and piece together a coherent argument on Novartis’ behalf”); *Apple Inc. v. Qualcomm Inc.*, IPR2018-01276, Paper No. 32, 2020 Pat.

App. LEXIS 7895, *15-16 (P.T.A.B. Feb. 3, 2020) (“a string citation lacking any explanation whatsoever is imprecise and vague” and judges “are not like pigs, hunting for truffles buried in briefs”; nor will [judges] hunt for truffles buried in string citations, offered in briefs”) (citing *Anderson v. Eppstein*, 59 U.S.P.Q.2d 1280, 1287, 2001 Pat. App. LEXIS 1, *19-20 (B.P.A.I. 2001) and *United States v. Dunkel*, 927 F.2d 955, 956 (7th Cir. 1991)); see also *Apple Inc. v. Qualcomm Incorporated*, 2020 Pat. App. LEXIS 7895, *15-16 (P.T.A.B. February 3, 2020 (citing *Dunkel*, 927 F.2d at 956)).

When claim element 1(b) is broken down into its component parts, the first rule relates to a period of time, the second rule relates to an element of profile data associated with a consumer, and the third rule corresponds to a course of travel associated with the consumer. Even if some of these individual rules were to be found in Felt, Felt does not teach or suggest the claimed combination of these three rules, nor does it teach or suggest the rules are met in the claimed order.

Further, the specifically claimed “course of travel” associated with the consumer is neither disclosed nor taught in Felt. The claims require “course of travel” to be determined using, at least, “a first location and a second location.” Exh. 1001, 38:65-67. Indeed, the Brief Overview in the specification of the ’108 patent notes that a “course of travel” is “associated with the consumer” and is determined “at least in part, on an analysis of the first location and the second location” of the

consumer. Exh. 1001, 2:60-3:2; *see also id.*, 3:41-43. Claim 2 then narrows the second location of the consumer to the consumer's destination, *id.*, 39:4-7, and claims 4 and 5 add limitations to specify that the location of the consumer is being tracked. *Id.*, 39:16-21. Further, in the file history of the '108 Patent, the examiner found that "[t]he scope of the claims has been changed to that of an advertising distribution campaign with an added third rule specifying a course of travel associated with the consumer, and determining that consumer has complied with said plurality of rules and is eligible for receiving distribution campaign." Ex. 2001, p.41

Petitioner's expert declaration states that "a POSITA would appreciate that Verizon's disclosure regarding speed, direction, proximity, and manner of travel all constitute 'course of travel' indicators." Exh. 1002, ¶245. While those indicators may be considered to determine course of travel, the plain language of the claim also requires consideration of a separate indicator, *i.e.*, an "analysis of the first location and the second location.". This, Felt does not do. Rather, Felt's indicators are all associated with movement at a single point in time rather than at two different locations.

Further compounding its errors, the Petition incorrectly mixes advertising devices such as "network clients" 116 (automobile), 122 (bus), 124 (van, semitruck,

trolley, etc.), and display 114 (billboard) with a mobile or consumer device 120 used by the consumer.

Accordingly, Petitioner has failed to meet its burden of establishing that this claim element is present in Felt, and Petitioner has provided no evidence that a POSITA would modify the teachings of Felt to arrive at the required “course of travel” claimed invention.

c. Element 1(c)] receiving a first indication that the consumer is at a first location within a radius of the geolocation;

The Petition states, “[Felt] discloses receiving a first indication as recited, by proximity to the geolocation.” Petition, p.10. Claim 1 of the ’108 patent, however, does not include a first proximity to the geolocation. Petitioner’s argument misreads and fails to address the actual claim language. The Petition states without explanation that “Verizon’s examples of traveling near geolocations, such as Newark airport, illustrate *receiving* a first indication of the consumer within the proximity of the geolocation, and receiving media content such as advertisements.” Id. (emphasis added) (citing four paragraphs of Felt and four paragraphs of the expert declaration without analysis). *See Parus Holdings, Inc. v. Google LLC*, 70 F.4th 1365, 1372 (Fed. Cir. 2023) (citing *United States v. Dunkel*, 927 F.2d 955, 956 (7th Cir. 1991) (“judges are not like pigs, hunting for truffles buried in briefs”).

Compounding the lack of clarity in the Petition, Dr. Goldberg provides no additional insight, stating what he “understands” and then citing multiple paragraphs of Felt without explanation. Exh. 1002, ¶¶258-59. Such conclusory statements are insufficient. See *Xerox Corp. v. Bytemark, Inc.*, IPR2022-00624, Paper No. 12, at 4 (PTAB Feb. 10, 2023) (the expert declaration “merely repeats, verbatim, the conclusory assertion for which it is offered to support” and therefore it is “entitled to little weight”) (citing 37 C.F.R. § 42.65(a)). Later in paragraph 260, Dr. Goldberg admits that “to the extent Verizon does not elaborately describe such aspects in exact terms of the claim, a POSITA ... would have appreciated that the system of Verizon must receive some type of ‘indication,’” but Dr. Goldberg never describes how a POSITA would understand “proximity to a geolocation,” *i.e.*, how somewhere around the outside of the geolocation could be equated to the claim requirement of “within the radius of the geolocation.” Exh. 1001, claim 1.

Paragraph 0036 of Felt states, “Proximity data may comprise a radius around a mobile unit 124 or display 114. ... Proximity may be dependent on multiple factors including specifics of the ad providing unit (e.g. type, size, location, speed of the mobile unit/display) and other nearby ad providing units, of the receiving unit (e.g. speed/direction of travel of the mobile device, specifics of the mobile device user).” Exh. 1004, ¶0036. Thus, the mobile unit 124 or display 114 are in the center of the radius. Further, “[d]isplaying particular marketing content on mobile unit 124,

and/or display 124 while in the area of a mobile device 120, another mobile unit 124, and/or display 114, which may also display the same, coordinated, or complementary marketing content (or related content), allows a sponsor of the marketing content to temporarily fill the marketing scene at that particular location as well as locations near particular displays.” *Id.* What is being described in this paragraph 0036 of Felt is a radius defined around a non-consumer that if a mobile device is detected in results in the non-consumer device displaying an ad. It is noted that the paragraph does mention “viewers that see the marketing content multiple times – on mobile unit 124, on their mobile device 120, and/or on a display 114.” *Id.* But there is no discussion of how mobile device 120 received that marketing content.

Furthermore, Felt notes “[a]dditional network clients located in vehicles 122, 124, 116 or in display 114,” Exh. 1004, ¶0026, which means moving advertisements on trucks, buses, and the like. *See id.*, Fig. 1. These additional network clients are not consumers on mobile devices, such as 120. *See* ¶0025. The specification in Felt defines these as separate types of devices. Mobile devices are personal to a consumer, while additional network clients are located in vehicles delivering the advertisement—which means the vehicles are not “consumers.” The Petition ignores this distinction.

Paragraph 0044 of Felt describes mobile unit 124 (not a consumer) distributing via a network, marketing content to nearby mobile devices 120 (consumer devices). “Users within 200’, 100’, 50’, or 10’, for example, of a mobile unit 124 [not a consumer] or display 114, may receive the same or similar marketing content on their mobile devices 120 that is being displayed on mobile unit 124.” Exh. 1004, ¶0044. There is only a mention of distance, not of geofencing. Paragraph 0036 of Felt describes an area defined by a radius, i.e. a distance associated with the user device 120 (consumer, see id. at ¶0036) and not a first indication that the consumer is at a first location within a geolocation used for distributing the marketing campaign. First, the claims use a geofence and not distance to define an area. Second the area is not around the consumer it is around the location. Only an indication of the non-consumer mobile unit 124 being at a location in the consumer’s radius of the geolocation is generated. There are similar descriptions in paragraphs 0046, 0052, and 0055.

Paragraph 0071 does not describe a radius surrounding the geolocation, but rather “GPS coordinates, zip codes...IP addresses associated with a geolocation location... and a local access and transport area (LATA) or a Numbering Plan Area (NPA) code associated with a geographic location, for example.” Exh. 1004, ¶0071. Hence, Paragraph 0072 only describes non-geofencing (radius around a geolocation) approaches to determining a consumer’s position.

Felt, paragraphs 0041-0044 do not describe a consumer embodiment. Rather, Figure 3 depicts a moving advertisement (van 124). As previously explained, this is not a consumer as required by claim 1 of the '108 patent.

The sophistry of the expert declaration ¶¶257-260 cannot change what is described and taught in the cited paragraphs of Felt. For example, the Declaration applies the same faulty language as the Petition, interpreting the claim requirement of “receiving a first indication that the consumer is at a first location within a radius of the geolocation” as “receiving such first indication by describing proximity to the geolocation.” Compare Exh. 1002, ¶257 with Exh. 1001, 38:58-59. Paragraph 260 of the declaration relies on paragraphs 0041-0044 of Felt and states that the mobile device being discussed is “mobile unit 124.” Exh. 1002, ¶260. However, mobile unit 124 is a van with signage—not a consumer or consumer device. *See* Exh. 1004, Fig. 3. Thus, the Declaration uses a definition of “consumer” inconsistently with the '108 patent.

Because the Petition fails to teach or describe the element of “receiving a first indication that the consumer is at a first location within a radius of the geolocation” of claim 1, there has been no showing of anticipation.

As to obviousness, the Declaration opines that “to the extent that Verizon does not elaborately describe such aspects in exact terms of the claim, a POSITA, such as, for example myself, would have appreciated that the system of Verizon must

receive some type of “indication,” such as instructions, a GPS ping on an internal map, or the like when the mobile unit 124 reaches ‘location 1’, ‘location 2’, etc.” Exh. 1002, ¶260 (emphasis added).

There are three problems with this assertion. First, mobile unit 124 is not a consumer or consumer device. Second, what is obvious, in hindsight, to a person having a Ph.D. in electrical engineering and forty years of experience as an engineer, see Exh. 1002, ¶¶4-5, is significantly greater than what would have been obvious to a person of ordinary skill in 2017 or 2018. Third, Dr. Goldberg must support his conclusions with evidence rather than unsupported assertions. See *Bytemark*, IPR2022-00624, Paper No. 12, at 4.

Consequently, the Petition has failed to show how this element of claim 1 is anticipated or rendered obvious by Felt.

d. [Element 1(d)] assessing, in response to the first indication, the at least one element of profile data associated with the consumer;

As discussed above, the required “first indication” of the previous element has not been taught or described in Felt. Further, “assessing ... the at least one element of profile data associated with the consumer” is not taught or described in Felt paragraphs 0042-0043. As used in claim 1, this language requires profile data associated with the consumer to be accessed “in response to the first indication,” and as noted above, this indication has to do with the positioning of the consumer.

Felt, on the other hand, focuses on mobile units (124) that are not consumers or consumer devices. For example, paragraphs 0042-0043 discuss mobile unit 124, which is a moving advertisement, not a consumer or consumer device. See Exh. 1004, ¶¶0042-0043. As shown in Figure 5 and described in paragraphs 50 and 51, mobile units (124), which are vehicles (vans or buses) or billboards that are part of the network element 110 and display ads, and they are distinct from mobile devices (120) belonging to consumers. These vans (124) are used to “monitor the location of mobile unit 124, mobile devices 120 [consumer devices], or displays 114, and may also monitor clock, calendar, forecasted weather,” etc. Exh. 1004, ¶46. According to paragraph 0040, “the decision module may take into account user profiles and/or user settings before distributing marketing content to various mobile device 120.” *Id.* at ¶0040. The mobile unit 124 (not a consumer or consumer device (120)) is described in paragraph 0039 as:

Mobile unit 124 may also comprise a management module 210 which manages the display and/or distribution of marketing content.... A primary component of the management module 210 may include decision module 212. The decision module 212 may determine whether to display marketing content.... The decision module 212 may take into account variables such as the categorizations and criteria of the marketing content, location and/or proximity of the

mobile unit 124 to other mobile units, mobile devices 120, or displays 114, the time of day, day of the week, month, or year, and the current, or forecasted weather, for example.

Exh. 1004, ¶0039. Therefore, contrary to petitioner's unsupported assertion, paragraph 0040 only describes a decision module 212 in the van or bus 124 as explained in paragraph 0039 of Felt, which is not a consumer or consumer device. Paragraph 0050 of Felt further supports that mobile unit 124 (a non-consumer device) is the device being used to determine if the content is to be displayed:

Additionally, all or a portion of the marketing content displayed on mobile units 124 [non consumer device] or displays 114, near mobile device 120 (e.g., within viewing distance of), may be distributed to mobile device 120 in an unobtrusive manner, such as being displayed in a rolling list of marketing content within an application on mobile device 120.

Exh. 1004, ¶0050. The content that is selected and displayed on the non-consumer device 124 may be distributed to mobile device 120 in an unobtrusive manner.

Furthermore, the Goldberg declaration conflates consumer mobile devices 120 and non-consumer devices, such as mobile unit 124. *See* Exh. 1002, ¶¶261-263. For example, in paragraph 263, Dr. Goldberg testifies that Felt is responsive to profile data “to avoid irrelevant information” being sent to unit 124. Exh. 1002,

¶263. However, contrary to Dr. Goldberg’s testimony, Felt does not “assess profile data” to determine whether to deliver content to mobile unit 124 because mobile unit 124 is part of the advertising network. Mobile unit 124 is not possessed by a consumer and so there is no profile data associated with mobile unit 124. See, e.g., Exh. 1004, ¶0038 (noting a mobile unit 124 may have a “user profile comparator” but not a profile itself).

Petitioner has failed to meet its burden of establishing that this element is present in Felt, and Petitioner has provided no evidence that a POSITA would modify the teachings of Felt to arrive at this limitation. Therefore, the Petition has not shown that this claim is anticipated or obvious.

e. [Element 1(e)] receiving a second indication that the consumer is at a second location;

This element is not found in Felt because Felt never discusses a second location. As The Board recognized, “...neither the Petition (Pet., 11) nor the cited portion of Dr. Goldberg’s declaration (see Ex. 1002 ¶¶264-268) clearly sets forth where Felt teaches the receipt of a second indication at a second location.”

Petitioner nevertheless argues that “Verizon [Felt] discloses receiving a second indication and determining the course of travel.” Pet. at 11 (citing Felt ¶¶0036, 0042-0043, 0045, 0053, 0058-0060). But a closer look at Petitioner’s citations reaffirm that Felt does not disclose a second location. For example, Felt paragraph 0036 states that:

Proximity may be dependent on multiple factors including specifics of the ad providing unit (e.g., type, size, location, speed of the mobile unit/display) and other nearby ad providing units, of the ad receiving unit (e.g., speed/direction of travel of the mobile device, specifics of the mobile device user), and of environmental conditions (e.g., rain, high smog day).

Exh. 1004, ¶0036. No second consumer location is discussed.

Further, as previously described, paragraphs 0036, 0042-0042, and 0045 refer to mobile unit 124 (van with ads), not a consumer or mobile device 120. Paragraph 0053 discusses “[a]pplication module 510...used for storing, displaying, and searching marketing content.” Exh. 1004, ¶0053. No mention of a second location or course of travel can be found in that paragraph. Paragraph 0058 mentions a rate of travel as a speed but fails to teach “a second indication that the consumer is at a second location” as required by in claim 1. Felt paragraphs 0058-0060 also do not mention a second indication that the consumer is at a second location.

Petitioner’s Expert Declaration at paragraphs 264 and 265 makes only a conclusory statement that Felt discloses receiving a second indication, referring to the above paragraphs of Felt, without explanation. *See* Exh. 1002, ¶¶264-265; *see also Bytemark*, IPR2022-00624, Paper No. 12, at 4 (conclusory expert opinions are entitled to little weight). The truth is that no second indication is found in Felt, and no identification is provided in the Declaration. Moreover, no evidence is provided

in the Declaration that a POSITA would find this element to be obvious or would modify Felt to arrive at this element.

Therefore, Petitioner has failed to meet its burden of establishing this element is present in Felt, and claim 1 is therefore not anticipated nor rendered obvious by Felt.

f. [Element 1(f)] determining the course of travel based, at least in part, on an analysis of the first location and the second location; and

The Petition and Declaration cite Felt's speed/direction of travel and proximity to various businesses as allegedly satisfying this limitation. *See* Petition pp.11-12; Exh. 1002, ¶¶264-268. Yet, at least because the "course of travel" in this element is specifically defined as "based, at least in part, on an analysis of the first location and the second location," Petitioner's argument fails. First, Petitioner's declaration superficially relies on Felt paragraphs 0058 and 0047 to satisfy this limitation; however, those paragraphs discuss "manner of travel," e.g., walking or driving. *See* Exh. 1002, ¶267; *see also* Exh. 1002, ¶¶0047, 0058. Yet, "manner of travel" is not claimed in this element. What is claimed is a "course of travel" "based, at least in part, on an analysis of the first location and the second location." Exh. 1001, 38:65-67.

Petitioner's expert admits this limitation is missing when he states that "I understand that, to the extent Felt does not disclose its tracking to include

comparison of first and second locations, a POSITA would have appreciated Felt's implicit disclosure of speed and location tracking via known technologies such as GPS to disclose this detail.” Exh. 1002, ¶268. Implicit disclosure of speed and location does not address the course of travel using a first and second location, as required by the claims. The first location and second location are further defined in claim 1 as being specific to a location that a consumer is at when a first indication is received and a second location when a second indication is received. Exh. 1001, claim 1.

The Petition and Declaration have improperly reduced the claimed first location and second location to just whenever a GPS signal occurs, or whenever a direction and speed are indicated by a GPS, which ignores the “first” and “second” limitations of the claim.

The Declaration states that Verizon discloses “speed, direction, proximity, and manner of travel all constitute ‘course of travel’ indicators.” Exh. 1002, ¶245. The course of travel “indicators” are being interpreted as parameters used to determine a course of travel, but they are not the actual “course of travel.” That is, these indicators are not a first location and a second location. Even if indicators at a point and time may be used to determine a course of travel, no explanation is provided as to what knowledge a POSITA would need to have to enable determining a “course of travel” for a consumer. Finally, as with previous claim elements, the

discussion in paragraph 263 of the Declaration again refers to the mobile unit 124 (a van with advertisements), not a consumer or mobile device 120. *See* Exh. 1002, ¶263; *see also* DTI, p.26 (indicating that “Patent Owner’s argument has merit.”).

Petitioner has failed to show that this claim is anticipated or rendered obvious by Felt.

g. [Element 1(g)] establishing that the consumer is eligible for the content distribution campaign when the plurality of rules is satisfied;

The element is not disclosed because there is no content distribution campaign, nor are the plurality of rules satisfied, there is only delivery of content in Felt. *See* § VIII.A.4(a-b), *supra*.

3. Dependent Claims 2-12

Claims 2-12 depend from independent claim 1, and the limitations of claim 1 are part of the dependent claims. Petitioner failed to establish its burden of showing that every element of claim 1 is taught or described by Felt or is rendered obvious by Felt. Petitioner, therefore, has failed to show that every element of the dependent claims 2-12 are taught or described by Verizon or are obvious in view of Verizon.

- 4. Independent Claim 13: A method comprising:**
- a. [Element 13(a)] specifying a content distribution campaign comprising media content associated with a geolocation;**
 - b. [Element 13(b)] specifying a plurality of rules for the content distribution campaign, wherein specifying the plurality of rules comprises:**
 - [13(b)(i)] specifying the geolocation,**
 - [13(b)(ii)] specifying a period of time, and**
 - [13(b)(iii)] specifying at least one action to be performed by a consumer;**

Petitioner acknowledges that claim element 13(b) has sub-elements, 13(b)i-13(b)iii. *See* Pet., Appendix of Claims, p.vi. However, the Petition fails to specifically address these sub-elements and leaves it up to the Board to hunt for them in Felt. Pet., 21–22. These unexplained string cites, again, are inadequate to meet the burdens of 35 U.S.C. § 312(a)(3) and 37 C.F.R. § 42.104(b). *See Bytemark*, IPR2022-00624, Paper No. 12, at 4 (conclusory expert opinions are entitled to little weight).

Further, the Petition states that “[i]n comparison to claim 1, claim 13 recites specifying the geolocation as a sub-feature of specifying rules rather than the campaign itself. [According to Petitioner] [t]he difference does not appear to have a meaningful distinction in the claims and is not directly explained within the specification.” Pet., p.21. Thus, despite noting that this particular language of claim

13 is different from claim 1, the Petition erroneously asserts to the Board that the difference is meaningless. *CAE Screenplates, Inc. v. Henrich Fiedler GmbH & Co.*, 224 F.3d 1308, 1317 (Fed. Cir. 2000) (“In the absence of any evidence to the contrary, we must presume that the use of these different terms connotes different meanings”).

One of the three rules in claim 13 that is required to be met prior to distributing the content is 13(b)(iii), “specifying at least one action to be performed by a consumer.” *See* Exh. 1001, 40:4-6. The Petition claims that “Verizon [Felt] discloses a content distribution campaign rule including specifying an action by the consumer as recited, at least by disclosing communications based on how/whether the consumer ‘acted upon’ the content.” Pet. pp. 21-22. However, claim 13 requires the consumer act *before* the consumer is determined to be eligible for the content distribution campaign. Exh. 1001, 39:59-65 (specifying that a consumer action is one of the required rules); 40:4-6 (specifying that the consumer is eligible for the distribution campaign “when the plurality of rules is satisfied”). Petitioner fails to identify where the claimed three rules are defined in Felt, and it fails to show how Felt’s alleged consumer action occurs before content delivery to the consumer.

The Petition and Declaration fail to provide any evidence that a POSITA would understand anything beyond what is provided within the four corners of Felt, and the reference itself fails to teach or suggest the claim elements of specifying the

geolocation, specifying a period of time, and specifying at least one action to be performed by the consumer. *See* Exh. 1002, ¶¶302-304. Further, no evidence is provided for what knowledge a POSITA would inherently know regarding all three rules set forth in claim 13.

c. [Element 13(c)] receiving a first indication that a consumer is within a radius of the geolocation;

The only evidence provided in the Declaration that a POSITA would find the claim element obvious is if the POSITA is an Expert. *See* Exh. 1002, ¶157 (“a POSITA, such as for example, myself”). Providing evidence that a POSITA must have forty years of experience and a Ph.D. in Electrical Engineering (*see* Exh. 1002 ¶4-5) is an application of an improper POSITA obviousness standard applied to the description and teachings of Felt. Furthermore, the discussion provided in paragraph 260 of the Declaration, as well as in the Petition, refers to the mobile unit 124, not a consumer or mobile device 120. *See* § IV.A.2, *supra*

Petitioner has failed to meet its burden of establishing that this element is present in Felt, and claim 13 is therefore not anticipated by Felt. Moreover, no evidence is provided in the Petition or Declaration (Exh. 1002) that a POSITA would modify the teachings of Felt to arrive at the claimed invention. Thus, the claim is not obvious over Felt.

- d. **[Element 13(d)] tracking the consumer in response to receiving the first indication to determine whether the consumer has performed the at least one action; and**

See § V.A.2(c), supra.

- e. **[Element 13(e)] establishing that the consumer is eligible for the content distribution campaign when the plurality of rules is satisfied.**

See § V.A.2(a-b), supra.

The Petition and Declaration (*see* Exh. 1002, ¶307) provide no evidence that Felt teaches this element, nor do they provide evidence it would have been obvious to a POSITA to modify Felt to arrive at this claim element. Consequently, the Petition has failed to show that this claim is anticipated or rendered obvious by Verizon.

The Board was also “skeptical whether Felt discloses the step of ‘*tracking the consumer* in response to receiving the first indication to determine whether the consumer has performed the at least one action...and as similarly discussed ... in relation to claim 1.’” DTI, p.32 (emphasis in original).

5. Dependent Claims 14-19

Claims 14-19 depend from independent claim 13, and the limitations of claim 13 are part of the dependent claims. Petitioner failed to establish its burden of showing every element of claim 13 is taught or described by Felt or obvious in view of Felt. Petitioner, therefore, has failed to show every element of the dependent

claims is taught or described by Felt or obvious in view of Felt, as the dependent claims incorporate all the elements of the independent claim from which they depend.

Petitioner has failed to meet its burden of establishing this element is obvious or present in Felt, and claims 14-19 are therefore not obvious or anticipated by Felt.

6. Independent Claim 20: A method comprising

a. [Element 20(a)] defining at least one of the following for a registered asset:

[20(a)(i)] a physical asset, and

[20(a)(ii)] a virtual asset;

The claim element requires that a registered asset must be a physical or virtual asset. However, the Petition ignores the word “registered”; nothing in the Petition describes where the “billboard, display” are registered to become registered assets, nor does it describe how an asset becomes registered in the cited prior art.

Further, Petitioner asserts that digital content shown on a display is a virtual asset. But this interpretation conflates “media content” with “registered asset,” both of which are limitations in claim 20. Therefore, Petitioner improperly asserts that two different claim elements have the same meaning as used in Felt. *See Becton, Dickinson & Co. v. Tyco Healthcare Grp., LP*, 616 F.3d 1249, 1254 (Fed. Cir. 2010) (“Where a claim lists elements separately, ‘the clear implication of the claim

language’ is that those elements are ‘distinct components’ of the patented invention.” (quoting *Gaus v. Conair Corp.*, 363 F.3d 1284, 1288 (Fed. Cir. 2004)).

The Petition and Declaration also fail to provide any evidence that a POSITA would understand anything beyond what was provided within the four corners of Felt, see Exh. 1002, ¶318, regarding the claim 20 elements of “defining at least one of the following for a registered asset: (a) a physical asset, and (b) a virtual asset.” Exh. 1001, 40:32-34. Further, no evidence is provided that a POSITA viewing Felt would find registering obvious.

The Board was also “skeptical whether the Petition demonstrates a reasonable likelihood that Felt satisfies the ‘second message’ limitations ... [and that] the Petition provides sufficient explanation to address the ‘second message’ limitation.” DTI, p.34. Petitioner is also precluded at this point of the IPR from introducing new arguments.

As a result, the Petition has failed to show that claim 20 is anticipated or rendered obvious by Felt (Exh. 1004).

b. [Element 20(b)] defining media content associated with the registered asset, the media content comprising a first message and a second message;

The Petition has not addressed this element of claim 20. Rather, Petitioner asserts that the Felt discloses: (1) “defining media content to include first and second messages, such as subsequent ads of different types (e.g., wholly different businesses

concerting the same asset (e.g., ¶[0042] airport, hotels, restaurants)); (2) small updates to original ads referring to different locations of the same business (e.g., ¶[0043] (minor modifications)); (3) updating different promotions for the same business, or different locations of a franchise (¶[0043]); or (4) a different frame of an advertisement (¶[0038]).

First, paragraphs 0038, 0042, and 0043 of Felt are directed toward a non-consumer mobile unit 124. Paragraph 0038 does not mention mobile device 120 or consumers at all. *See* Exh. 1004, ¶0038. The paragraphs around paragraph 0038 must be read for context. What is described is mobile unit 124 or displays 114, not a mobile device 120 that is associated with a consumer. Felt differentiates between the different devices and their operation. A moving billboard on a truck or signage on a bus displaying content differs from a consumer's personal experience. Paragraphs 0042 and 0043 of Felt explicitly calls out mobile unit 124 and does not describe mobile device 120 (*i.e.*, the consumer). *Id.* at 0043-0044.

The element also requires “media content comprising a first message and a second message.” However, the Petition fails to properly apply other elements' limitations on the first and second messages. The other elements require a set of rules for providing the media content to the consumer audience segment. Exh. 1001, 40: 40-43. Yet two other elements require associating the first message/second

message with the consumer. Exh. 1001, 40:51-52, 55-56. The media content must be associated with the consumer.

Regarding (1), the first and second messages relied on by Petitioner are simply different ads for different businesses that are sent not to consumers or consumer segments but to the mobile unit 124 (a van with advertisements). With regard to (2) and (3), there is only one message. Modifying a message, results in only a change in the original message, not a new one. Nothing in Felt teaches or describes a modified message having different rules applied than the original message (*i.e.*, fixing a grammatical error in a message does not change how that message is processed). Regarding (4), simply sending a message based upon the location of a media unit 124 does not establish more than one rule is being applied. The rule is to display the business's ad when close to the business. Exh. 1004, ¶0043. The Petitioner has the burden of identifying to the Patent Owner and the Board, where the elements are specifically shown. Citing paragraphs without explanation does not meet the Petitioner's burden.

The Petition and Declaration also fail to provide any evidence that a POSITA would understand anything beyond what was provided within the four corners of Felt, see Exh. 1002, ¶319, regarding the claim 20 element of "defining a media content associated with the registered asset, the media content comprising a first message and a second message." Exh. 1001, 40:35-37.

Simply put, the Petition fails to show that Felt anticipates or renders obvious claim 20.

c. [Element 20(c)] defining a consumer audience segment to be delivered the media content;

This element requires a “consumer audience segment” to be defined, not verification of a characteristic in a user profile, before sending media content. *See* Exh. 1001, 40:38-39. User selection applies to an individual, but the claim term requires “a consumer audience segment.” The Declaration asserts that an individual user’s selection somehow defines an audience segment. Exh. 1002, ¶320 (“Verizon’s content tailoring includes such definition of consumer segment also by its general location-based services which consider user location/proximity/actions in determining the audience segment for targeted ads.”). Yet aside from some more string cites that are unaccompanied by any parenthetical explanations, the Declaration—and the Petition—make no effort to explain how one user setting could define an audience segment. *See Bytemark*, IPR2022-00624, Paper No. 12, at 4 (conclusory expert opinions are entitled to little weight).

- d. [Element 20(d)] Defining a set of rules for providing the media content to the consumer audience segment, the set of rules comprising:**
- [20(d)(i)] a first rule corresponding a consumer's location in association with the registered asset, and**

See § V.A.2(a), *supra*. The Petition and Declaration provide no evidence as to what would be obvious to a POSITA.

Petitioner has failed to meet its burden of establishing this element is present in Felt, and claim 20 is therefore not anticipated by Felt. No evidence that a POSITA would modify the teachings of Felt to arrive at the claimed invention is provided in the Petition or Declaration (Exh. 1002), and the claimed element is not obvious over Felt.

[20(b)(ii)] a second rule corresponding to at least one action performed by a consumer during a course of travel related to the consumer's location in association with the registered asset;

See § V.A.2(a), *supra*. The only indication of what a POSITA would understand is “that Verizon [Felt] also teaches that action may include the user’s travel itself, from one location to another.” Exh. 1002, ¶322. But the claimed action cannot be simply the user’s travel itself; such a definition would conflate two claim limitations, i.e., 1) the at least one action, and 2) course of travel related to the consumer’s location)), because at least one action is performed by a consumer during

a course of travel. Therefore, the Petition has failed to meet its burden of establishing that this element is present in Felt, or that it would have been obvious to a POSITA.

e. [Element 20(e)] receiving a first determination that the first rule has been satisfied;

The Petition and Declaration fail to distinguish between Felt's consumer/mobile device 120 and mobile units 124 (vans with advertisements). Mobile unit 124 is erroneously used for consumer elements. The Petition and Declaration also cite portions of Felt with little or no explanation. *See* Pet., 29-30; Exh. 1002, ¶324. Further, no evidence of what a POSITA would find obvious is provided for this element.

f. [Element 20(f)] Associating the first message with the consumer upon the first rule being satisfied;

The Petition and Declaration fail to distinguish between Felt's consumer/mobile device 120 and mobile unit 124. Mobile unit 124 is erroneously used for consumer elements. The Petition and Declaration also cites portions of Felt with little or no explanation. *See* Pet., 29-30; Exh. 1002, ¶324. Further, no evidence of what a POSITA would find obvious is provided for this element.

g. [Element 20(g)] receiving a second determination that the second rule has been satisfied; and

The Petition and Declaration fail to distinguish between Felt's consumer/mobile device 120 and mobile unit 124. Mobile unit 124 is erroneously

used for consumer elements. The Petition and Declaration also cites portions of Felt with little or no explanation. *See* Pet., 29-30; Exh. 1002, ¶324. Further, no evidence of what a POSITA would find obvious is provided for this element.

h. [Element 20(f)] Associating the first message with the consumer upon the first rule being satisfied;

The Petition and Declaration fail to distinguish between Felt's consumer/mobile device 120 and mobile unit 124. Mobile unit 124 is erroneously used for consumer elements. Further, an assertion is made that a POSITA would understand from Felt's disclosure that updating in the form of "minor modifications" to earlier advertisements constitutes a second message. *See* Exh. 1002, ¶325. This makes little sense as there is only one message that is modified. Such an interpretation would result in an absurd outcome in patent law, where a device is non-infringing because it has only one message, but if an update to that message ever occurs, there are now two messages. Or infringers do not infringe because they do not send only one message in response to something because an error in that message has been corrected, and it is now a second message being sent.

It is also improper to cite paragraphs in the Petition while avoiding identifying what teachings or disclosures are being relied on in those paragraphs to teach or describe the claim element.

Petitioner has failed to meet its burden of establishing this element is present in Felt, and claim 20 is therefore not anticipated by Felt. No evidence that a POSITA would modify the teachings of Felt to arrive at the claimed invention is provided in the Petition or Declaration (Exh. 1002), and the claim is not obvious over Felt.

7. Dependent Claims 21-23

Claims 21-23 depend from independent claim 20, and the limitations of claim 20 are part of the dependent claims. Petitioner failed to establish its burden of showing every element of claim 20 is taught or described by Felt or obvious in view of Felt. Petitioner, therefore, has failed to show every element of the dependent claims is taught or described by Felt or obvious in view of Felt as the dependent claims incorporate all of the elements of the independent claim from which they depend.

Petitioner has failed to meet its burden of establishing this element is obvious or present in Felt, and claims 21-23 are therefore not obvious or anticipated by Felt.

B. GROUNDS III-V: The Claims of the '108 Patent are Not Obvious over Felt in view of Geer, in view of Creemer or Scofield, or in view of Creemer or Scofield and Geer.

When an obviousness challenge involves more than one piece of prior art, the test for motivation to combine is whether “a skilled artisan would have been motivated to combine the teachings of the prior art references to achieve the claimed invention”—not whether a POSITA would have combined the references for some

reason unrelated to the claims of the patent and inadvertently achieve the claimed invention. *Axonics, Inc. v. Medtronic, Inc.*, 73 F. 4th 950, 957 (Fed. Cir. 2023) (citations omitted).

Here, Petitioner fails to show that every limitation is found by any combination of the prior art references, and, even if they were, Petitioner fails to establish that a POSITA would have been motivated to combine the references to achieve the claimed invention.

Specifically, the Petition fails to address any motivation to combine Felt with Geer, or Creemer, or Scofield.⁴ Instead, it is left up to the Patent Owner and Board to search through the Petition and Declaration to attempt to piece together such motivation from general statements and general cites. This failure alone negates the arguments in Grounds III, IV, and V. See *Axonics*, 73 F. 4th at 957 (noting the Board in an IPR must look to “whether the relevant artisan would be motivated to make the combination to arrive at the claims’ actual limitations”); *Apple*, 2020 Pat. App. LEXIS 7895, *15-16 (judges “are not like pigs, hunting for truffles buried in briefs”).

Making this undertaking even more difficult, Grounds III-V are all lumped together with no direction as to where the different references are being relied on. The Patent Owner or the Board should not have to use word search on a document

⁴ The same is true for Adharapurapu in Ground VI-VII. *See infra*.

to find where a reference is being used to discern whether a motivation to combine has been disclosed.

1. No Motivation to combine Felt and Greer (Ground III).

Geer is a “fan networking system (FNS)” that can be installed on portable smart devices (like smartphones) and offers event-customized services to fans at events or venues, “such as messaging, fan groups, friends networking, mementos, coupons, and contests.” Exh. 1005, Abstract & ¶6. The field of the invention is described as “social networking at an event in a venue.” Id., ¶2.

Thus, the first issue undermining a motivation to combine is that the Petition did not address why Geer, a patent directed at social media, would be utilized by a POSITA to develop a personalized, location-based advertising campaign, nor is there any explanation as to whether the teachings of Geer could even be successfully combined with Felt. *See generally* Petition & Exh. 1002, ¶338. Indeed, Geer deals with a situation where like-minded people are already at an event, while Felt attempts to influence purchases; there is no reason to combine the references.

Second, Petitioner asserts that “Geer discloses responsive activation of high-resolution tracking (“HIRES”)...to activate HIRES when a user crosses a geofence boundary for increased precision near the location of interest, while reducing phone battery consumption further away from the location.” Pet., p.34. However, many of Felt’s devices (114, 112, 124 of FIG. 1) are non-consumer devices, and the

Petition provides no evidence that battery power was an issue in Felt. Nor is conserving battery power an issue in the '108 patent. See *Axonics*, 73 F. 4th at 957 (motivation to combine must focus on achieving the claimed invention, not on combining references for some reason unrelated to the claims).

Third, no evidence is provided that precision was lacking in Felt or that combining Geer's teachings to it would result in a different or improved result.

Fourth, a fan/user in Geer is at an event and has a general predetermined location. Because the general location is known, higher resolution could be helpful. In Felt, mobile units and mobile devices are moving around a city or state, so their locations are changing. No explanation is provided as to why, when passing through a geofence, it would be advantageous in Felt to reduce the power to save battery life using Geer's teachings when that geofence area is not the destination. The mobile device or mobile unit would be affected when in a geofenced area that is not the final destination if the approach of Geer was incorporated into Felt.

For at least these reasons, a POSITA would not have been motivated to combine the teachings of Felt with Geer to arrive at the claimed invention in the '108 patent, nor would a POSITA have any reasonable expectation of success if Felt were combined with Geer.

Additionally, Felt fails to teach or describe all the elements of the '108 patent claims 1, 13, and 20, as multiple elements are missing. See § V.A, *supra*. Geer only

allegedly provides one element of independent claim 13, “a direct response to the first indication.” Pet., p.34. If the combined references fail to teach or describe all the elements of independent claims, there can be no motivation to combine. *Univ. of Strathclyde v. Clear-Vu Lighting LLC*, 17 F.4th 155, 160-62 (Fed. Cir. 2021) (reversing Board’s finding that claims were unpatentable for obviousness when the prior art failed to disclose or suggest a key limitation).

2. No Motivation to Combine Felt and Creemer (GROUND IV).

The Petition alleges that Creemer discloses “targeted-content delivery including rules corresponding to a consumer’s course of travel by consideration of the user’s path of travel” and that Creemer “also considers ‘estimated future positions’ in providing content.” Pet., p.8. The only motivation for combining Felt and Creemer in the Petition is a word-for-word regurgitation from the Declaration. After hunting through the numerous paragraphs cited in the Declaration on page 9, discussion of a motivation to combine Creemer with Felt was found in paragraph 252:

A POSITA would have been motivated to implement Creemer’s more complete consideration of the consumer’s path of travel into Verizon to promote precision, consideration of user circumstances, refinement of information, and/or otherwise to improve accuracy, reduce

noise, and/or promote efficiency in targeted communications.

Exh.1002, ¶252. There are several issues with this conclusory argument.

First, the only discussion provided in the Declaration is what Creemer discloses in general and then what Creemer's Abstract states. See Exh. 1002, ¶¶247-253, 270-273, 276. Cramer is only to be relied on, "to the extent that Verizon's rules for speed/direction, proximity, and/or manner of travel do not disclose a course of travel.

Second, the Petition only relies on Creemer with respect to claim 1, and no mention is made concerning independent claims 13 and 20.

Third, Felt mentions speed three times: speed of the mobile unit/display, speed/direction of travel of the mobile device, and mobile unit 124 being stopped or traveling at very low speeds. Exh. 1004, ¶¶0036, 0045. Thus, a POSITA looking at speed and direction would utilize Felt's teachings and would have no reason to review Creemer—in particular paragraphs 0062-0064 cited in the Declaration, Exh. 1002, ¶¶247-49—to determine how to make use of speed and direction.

Fourth, the Declaration also asserts that Creemer discloses consideration of mode of transportation and estimated future position. Exh. 1002, ¶¶250-251. But the Declaration fails to explain why a POSITA would consider mode of transportation and estimated future position relevant to Felt. It appears that the Petition is merely

relying on a portion of Creemer’s Abstract—see Declaration, ¶52 (citing Exh. 1006, Abstract, ll. 10-15) to supply a motivation to combine, but this brief reference is a conclusory motivation at best.

Additionally, Felt fails to teach or describe all the elements of the ’108 patent claims 1, 13, and 20, as multiple elements are missing. *See* § V.A, *supra*. If the combined references fail to teach or describe all the elements of independent claims 1, 13, and 20, there can be no motivation to combine. *Univ. of Strathclyde*, 17 F.4th at 160-62.

3. No Motivation to Combine Felt and Scofield (GROUND IV)

The Petition references Scofield for its “rule of course of travel through traffic patterns, navigational paths, and/or user trails to provide content.” Pet., p.9. To support this claim, the Petition provides a plethora of string cites with little or no explanation as to why each portion was selected, and the same string cites are duplicated in the Declaration without explanation. Compare Pet., p. 9 with Dec., ¶¶253-56. The Petition then asserts that a “POSITA would have modified Verizon by Scofield’s express course of travel to increase accuracy, reduce noise and/or otherwise promote efficiency in targeted communications. Pet, p. 9 (citing Dec., ¶¶253-56). After hunting through the multitude of string cites, there is nothing Patent Owner could find in Scofield that mentions or insinuates how to “increase accuracy, reduce noise and/or otherwise promote efficiency in targeted

communications.” Nonetheless, this same flawed claim of motivation to combine is repeated in paragraphs 273 and 276 of the Declaration (Exh. 1002).

Simply citing example implementations and making unsupported assertions about the benefits of a reference fails to identify why a POSITA would look to that reference, how the alleged benefits would occur, and whether it would even be practical or possible to make such a combination. It is not for the Patent Owner or the Board to identify a motivation to combine; rather, the Petitioner has the burden.

Additionally, Felt fails to teach or describe all the elements of the ’108 claims 1, 13, and 20 as multiple elements are missing, *see* § V.A, *supra*, and Scofield does not shore up those deficiencies. If the combined references fail to teach or describe all the elements of independent claims 1, 13, and 20, there can be no motivation to combine. *Univ. of Strathclyde*, 17 F.4th at 160-62.

4. No Motivation to Combine Felt, Creemer, and Geer (Ground V)

See §§V.B.1 and V.B.2, *supra*.

a. The Declaration Fails to Explain where Claim Elements Are Taught by Creemer or Scofield in claims 13, 15-19, 20, and 22-23.

The Petition and Declaration do not rely on Creemer or Scofield to teach any element of independent claims 13 and 20, nor any elements of dependent claims 15-19 and 22-23. Therefore, it is improper to include claims 13, 15-19, and 20, 22-23 in Ground 4, as the arguments are the same as they are in Ground II based on Felt.

Similarly, claims 13 and 15-19 in Ground 5 (Felt, and Creemer or Scofield, further view of Geer) do not rely on Creemer or Scofield. Therefore, it is improper to include claims 13, 15-19 in Ground 5, as the arguments are the same as they are in Ground III.

5. Claims 1-23 Grounds III-V Obviousness

As Felt fails to teach all elements of the combined claims, and the additional references of Grounds III-V also fail to teach the missing elements. Further, even if the elements could be identified, the Petitioner has failed to meet its burden of establishing a motivation to combine the references contained in Grounds III-V.

C. GROUND VI-VII: The Claims of the '108 Patent are Not Obvious over Adharapurapu in view of Felt, and further in view of Geer

1. No Motivation to Combine Adharapurapu and Felt and Even if Combined, The Combination Fails to Teach All of the Claim Elements

Once again, the Patent Owner and the Board must search through the Petition and Declaration to discern a motivation to combine. *See* Pet., pp. 38, 39, 41, 50-53. Combing through the citations on those pages results in the following statement, repeated multiple times in the Declaration:

POSITA would have ... to increase accuracy, reduce noise, promote efficiency, and/or better recognize a desirable venue in communication tailored content.

See Exh. 1002, ¶¶343, 350, 373, 373, 406, and 412. But such a generalize statement provides no support for motivation to combine. *See* TQ Delta, LLC v. Cisco Sys., 942 F.3d 1352, 1359 (Fed. Cir. 2019). Further, there can be motivation to combine, if the combined teachings fail to teach all of the claim elements.

As explained previously, Felt does not teach claim elements 1(e) and 1(f). *See* §§V.B.1 and V.B.2, *supra*. The Board indicated that it was skeptical that Felt taught “a second location and no indication is provided in Dr. Goldberg’s Declaration.” DTI, p.26.

Also, claim element 13(d), “tracking the consumer in response to receiving the first indication to determine whether the consumer has performed the at least one action,” is not taught in Felt. *See* §§V.B.1 and V.B.2, *supra*. The Board also indicated that “[u]nder Grounds 1 and 2, we are skeptical whether Felt’s method of advertising satisfies Element 13(d).” DTI, p.41.

As explained with respect to claim 1, independent claim 20, element 20(g) recites “receiving a second determination that the second rule has been satisfied,” which is not found in Felt. *See* §§V.B.1 and V.B.2, *supra*. The Board also stated that the “Patent Owner’s argument has merit.” DTI, p.34. The Adharapurapu reference is not relied on for teaching element 20(g) and the Petition relies solely on Felt. Pet., p.62. (“to the extent that Alcatel [Adharapurapu] does not expressly or

elaborately discuss its rules in specific terms of consumer actions, Verizon [Felt] discloses its rules”).

Therefore, Felt does not teach or describe claim elements 1(e), 1(f), 13(d) and 20(g).

With regards to Adharapurapu teaching of element 1(e) and 1(f), the only comment in the petition is a statement of “[c]ontinuing Alcatel’s first example above, comparing the indication of stations D to station A, Alcatel determines the course of travel between those stations, accordingly.” Pet., p. 40 (citing Adharapurapu, ¶¶17, 20-22; DEC., ¶347). Course of travel in Adharapurapu is not comparing stations D to station A, but comparing to cellular coverage accessed to a history using base stations. *See* Adharapurapu, ¶22.

Adharapurapu is using old and entirely different technology to track mobility service, and not the location of the of the consumer within a radius of the geolocation as required by the claims, *i.e.*, “[w]hen a mobile device 107 is detected (401) by a tracker base station 105, the tracker base station 105 checks (402) if the mobile device user has subscribed to content delivery based on direction of mobility service.” Adharapurapu, ¶22. Further, “[t]he tracker module 101 checks (406) the mobility history 203 to determine the direction of movement of the mobile device 107. *Id.* Mobility history is used to determine a prediction of the next cellular area

(a predicted location is determined, not a direction), and not a first location and second location as claimed in elements 1(e) and 1(f).

Furthermore, Adharapurapu states that it can be applied in a GSM network. As pointed out in “The GSM System for Mobile Communication” book, (Exh. 2002) in Figure 1.1 cellular coverage is overlapping. There is no geofencing because a mobile device can be covered by two or more cells at the same time and no evidence has been provided by Petitioner that a mobile device will always be assigned the same base station. The point of geofencing as claimed is to have a boundary and not overlapping cells. Additionally, propagation paths affect to which base stations a mobile device may be connected. See Figure 9.8, Exh. 2002, p.579.

The 3GPP cellular standard, TS 45.008 V5.11.0, Technical Specification Group GSM/EDGE Radio Access Network; Radio subsystem link control (Release 5)(June 2003), (Exh. 2003) further identifies the shortcomings of Adharapurapu’s approach of tracking mobility service. Cells may be selected based upon being suitable. TS 45.008 teaches that an MS [Mobile Station] that has selected a GSM cell for service (‘camped on a cell of the first RAT’) is to follow the procedures of section 6.6.5 to possibly select an identified UTRAN cell (‘cell of a second RAT’) for camping if the UTRAN cell is ‘suitable’ to select for service (‘camping’).

Section 6.6 of TS 45.008, titled “Measurements for Cell Reselection,” states that “[u]pon completion of cell selection and when starting the cell reselection tasks,

the MS shall synchronize to and read the BCCH information for the 6 strongest non-serving carriers (in the BA) as quickly as possible” and that “[f]or multi band MSs the strongest non-serving carriers may belong to different frequency bands.” Exh. 1003, 20. Section 6.6.4, titled “Measurements on cells of other radio access technologies” explains that “[f]or a multi-RAT MS, cells or frequencies with other radio access technologies may be included in 3G Cell Reselection list.” *Id.* at 22. Section 6.6.5, titled “Algorithm for cell re-selection from GSM to UTRAN,” further explains that the UE “shall . . . reselect a suitable (see 3GPP TS 25.304) UTRAN cell” if the measured parameters exceed those of the serving cell and all the suitable non-serving cells and that “[t]he parameters required to determine if the UTRAN cell is suitable are broadcast on BCCH of the UTRAN cell.” *Id.* at 24.

Therefore, even if a mobile device takes the same path through the same cell sites, the use of different services, such as a service requiring a UTRAN cell, would result in different cells being used.

Adharapurapu teaches using history of a person’s travel, not determine course of travel, but rather, to predict whether the next cellular area (*i.e.*, base station) will be accessed next by a mobile subscriber. The approaches of using geofencing in Felt is opposed to using cellular coverage of Adharapurapu. Further, the approach of Adharapurapu requires the same historic cellular coverage areas to be recorded to be able to access the history of previous travels to predict where a mobile device is

going. A person skilled in the art would understand that cellular coverage overlaps and cells are not simply selected because of a mobile's device location.

asserts that subscription/opting in Adharapurapu teaches or describes claim element 13(d). But as pointed out by the Board, the element requires “*tracking the consumer* in response to receiving the first indication to determine whether the consumer has performed the at least one action.” DTI, p. 32. The Board also indicated that “for reasons similar to those discussed above in connection with claim 1...[they] are skeptical whether Felt discloses the step.” *Id.* The tracking of the consumer in a general area in Adharapurapu fails no better:

When a mobile device 107 is detected (401) by a tracker base station 105, the tracker base station 105 checks (402) if the mobile device user has subscribed to content delivery...If the mobile device 107 subscriber has not subscribed to the content delivery based on direction of mobility service, location information of the mobile device 107 is not noted.

Adharapurapu, ¶22. Therefore, tracking is not in response to, rather it occurs prior to, receiving the first indication. A determination is being made of what to do with the tracked information, not if tracking will occur.

If the references of Adharapurapu and Felt were combined, the resulting combination would fail to teach or describe all of the claim elements of the '108 patent, and therefore a person skilled in the art would not make such a combination

as elements would be missing. Specifically, claim elements 1(e), 1(f), 13(d) and 20(g) are missing from such a combination.

Further, a person of skill in the art would not look to the teachings of Adharapurapu, with its unreliable cellular coverage approach, to combine with any of the other references, since the same path taken by a mobile device can result in different cells being used and hence in different directions.

2. No Motivation to Combine Adharapurapu, Felt, and Geer

As explained above claim elements 1(e), 1(f), 13(d) and 20(g) are not found in the combination of Adharapurapu and Felt. *See* §§V.B.1 and V.B.2, *supra*. Further, no motivation exists to make such a combination. *Id.* For the same reason express above with Felt and Geer, Grounds 3 and 5, there is no motivation to add Adharapurapu to the mix. *See* §§V.B.1 and V.B.2, *supra*, Further, the Board encountered the same problem as Patent Owner, “it is not clear from the Petition how the proposed combination would satisfy the relevant claim limitations [13(d)], which requires “tracking the consumer in response to receiving a first indication to determine whether the consumer has performed the at least one actions.” DTI, p. 53.

CONCLUSION

As described above, the Petition fails to demonstrate the obviousness of the claims of the '108 Patent because none of the references, either alone or in combination teach all of the elements of the claims. Petitioner's challenges should be denied and the patentability of the claim should be confirmed.

February 22, 2024

Respectfully submitted,

Meredith Martin Addy /

Meredith Martin Addy
Reg. No. 37,883
meredith@addyhart.com

ADDYHART P.C.
10 Glenlake Parkway, Suite 130
Atlanta, Georgia 30328
312.320.4200

Robert Hart
Reg. No. 35,184
robert@addyhart.com

Gregory B. Gulliver
Reg. No. 44,138
gbgulliver@addyhart.com

Brandon C. Helms
bhelms@addyhart.com
Reg. No. 61,742

ADDYHART P.C.
401 N. Michigan Ave., Suite 1200-1
Chicago, Illinois 60611
312.834.7701

Counsel for Patent Owner
BoardActive Corporation

CERTIFICATE OF SERVICE

Pursuant to 37 C.F.R. § 42.6(e), the undersigned certifies the service of Patent Owner BoardActive Corporation served Patent Owner's Response on the counsel of record for Petitioner Foursquare Labs, Inc. by filing this document through the P-TACTS, as well as delivering a copy via electronic mail to the following:

Michael.Carrillo@btlaw.com

Steven.Shipe@btlaw.com

Date: February 22, 2024

By: /Meredith Martin Addy/
Meredith Martin Addy

CERTIFICATE OF COMPLIANCE

This Petition complies with the type-volume limitations as mandated in 37 C.F.R. § 42.24, totaling 13,466 words. Counsel has relied upon the word count feature provided in Microsoft® Word for Mac Version 16.82.

Dated: February 22, 2024

By: /s/ *Meredith Martin Addy*
Meredith Martin Addy